

## FREEDOM COURT REPORTING

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1 stayed in Community based services until I  
2 retired.

3 Q Okay. And the last position you  
4 held when you retired was?

5 A Was the Director of Region III  
6 Community Services.

7 Q And explain to me the area that  
8 Region III encompasses?

9 A Ten counties in southwest  
10 Alabama.

11 Q And where was your office  
12 located, your main office?

13 A The last office when I retired  
14 was located over at the Poundstone facility  
15 in Daphne where I believe the office is  
16 still located.

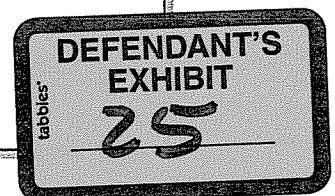
17 Q And who was your immediate  
18 supervisor?

19 A Fordyce Mitchell.

20 Q And he is in Montgomery, correct?

21 A Correct.

22 Q And who would be above  
23 Mr. Mitchell?



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1           when you just say Region III,  
2           because her last job, Community  
3           Services was split out, and no  
4           longer under -- used to have a  
5           Regional Director that was in  
6           charge of Facility Director and  
7           Community Services Director. And  
8           the present configuration when she  
9           retired, Community Services is  
10          now, as she's testified, directly  
11          lined up with Montgomery and the  
12          Facility Director reports straight  
13          to -- it was a Director of  
14          Facility Services basically who  
15          reports to the Commissioner II.  
16          That's all.

17               Q       I'm just basically trying to get  
18          an idea of when -- the main time period that  
19          I'm talking about is probably 2000 on. Were  
20          you acting in some sort of Director role  
21          from 2000 on?

22               A       Yes. Of Community Services and  
23          reporting to Montgomery.

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1           Q     Okay. Okay. And can you briefly  
2 or as detailed as you need, give me a  
3 description of your job duties as a  
4 Director?

5           A     Okay. It had to do with  
6 budgeting, oversight of the Community based  
7 services that operated within that area,  
8 oversight of the Direct Client Services that  
9 were handled out of the regional office, the  
10 personnel of the Regional Community Service  
11 office, and a lot of Development and  
12 Community Relations that had to go with that  
13 office.

14           Q     In that position, did you have --  
15 at times Ms. Jerryln London, who is sitting  
16 here with us?

17           A     Correct.

18           Q     How about Kendra Butler?

19           A     Yes.

20           Q     And Ms. Winifred Blackledge,  
21 who's also sitting here?

22           A     Yes.

23           Q     Let me ask you if you've had

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1 Q Do you know if those written  
2 policies were given to all employees?

3 A I believe that information was  
4 made available to everybody, but I couldn't  
5 remember specifically when and in what  
6 format.

7 Q I guess one thing I'm trying to  
8 ask is did you, say, go to training and then  
9 you were responsible for taking that  
10 training and giving it to other employees  
11 that are under you?

12 A I honestly don't remember that.  
13 It seemed to me that -- that there were  
14 written information and policies and  
15 procedures that were given to every  
16 employee.

17 Q But you did not go --

18 A I don't remember conducting a  
19 training session.

20 Q Okay. With employees that were  
21 under you?

22 A I don't remember that.

23 Q Okay. Are you aware of anyone

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1 else that would conduct such training to  
2 other employees that would be below you?

3 A Well, it seemed to me that there  
4 were like general classes that were held at  
5 different sites where everybody was invited.

6 Q Invited or required to attend, I  
7 mean is that a difference? Is that --

8 A I couldn't answer you honestly  
9 about that. I just recall people being --  
10 signing off on things that they had been  
11 through training --

12 Q Okay.

13 A -- or provided information.

14 Q Let me ask you if you remember  
15 when you first met Ms. Blackledge?

16 A I can't remember our first  
17 meeting, other than it was a long time ago.

18 Q I believe she had started  
19 sometime around 1987?

20 MS. BLACKLEDGE: Correct.

21 Q You were employed?

22 A I would have been there.

23 Q Okay. Would you over the time

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1 you had supervised Ms. Blackledge, would you  
2 generally say she was a good employee?

3 A I say basically a good employee.

4 Q Would you say she was productive?

5 A You'd have to be much more  
6 specific about a particular task or  
7 function.

8 Q Okay. And I will. I will get  
9 more specific. Did you ever have any  
10 general problems with her work?

11 A I'm sorry to be slow in  
12 answering. I'm just trying hard to think of  
13 specifics, and I don't -- I don't have  
14 specifics that come to mind.

15 (Whereupon Plaintiff's  
16 Exhibit Number 2 was marked and  
17 attached to the deposition.)

18 BY MR. WILSON

19 Q Okay. I'm going to mark this as  
20 Plaintiff's Exhibit 2 and ask if you've seen  
21 this document before. Have you seen that  
22 before?

23 A Yes, I believe so.

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1           Q     And do you recall a specific CSS  
2     III position coming open sometime in 2003?

3           A     I know we had an opening during  
4     that time.

5           Q     And did you play a role in  
6     getting that position opened?

7           A     Yes.

8           Q     And do you recall when that --  
9     when you -- explain to me what your role was  
10    in opening a CSS III position in 2003?

11          A     As best I can recall, it would  
12    have entailed a budget review, a submission  
13    of a request through the division of MR and  
14    the Personnel Department. They would have  
15    actually created the opening and done the  
16    announcing. And then there would have been  
17    a panel established to review anybody who  
18    had applied for the job, and then an  
19    announcement of whoever was selected for  
20    that position.

21                   (Whereupon Plaintiff's  
22                   Exhibit Number 5 was marked and  
23                   attached to the deposition.)

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1           A       She would have had a degree in a  
2 related human service field.

3           Q       So did she meet the  
4 qualifications as listed on the document  
5 there?

6           A       She would have had a degree that  
7 fit within this qualification, yes.

8           Q       So is the answer she met the  
9 qualifications as listed on the document?

10          A       Yes.

11          Q       She would have been employed with  
12 Region III for approximately 16 years, at  
13 the time, correct?

14          A       Yes.

15          Q       Let me just talk about in general  
16 when a position comes open, is there always  
17 an interview process?

18          A       Yes, to my knowledge. I can't  
19 think of any time we wouldn't interview  
20 people.

21          Q       Okay. And is the process  
22 generally there's a panel that's formed to  
23 interview the applicants?

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1           A       Correct.

2           Q       How is that panel -- how do we  
3 decide who is on that panel?

4           A       I guess the Personnel Department  
5 would try to have some kind of  
6 representational group.

7           Q       Were you ever part of the  
8 discussions about who would be on a certain  
9 panel?

10          A       I don't recall that.

11          Q       But you've been on a panel,  
12 correct?

13          A       Yes.

14          Q       And how would you be notified if  
15 you were on a panel?

16          A       You would get some kind of  
17 official notification from the Personnel  
18 Department that you've been selected, when  
19 the interviews would transpire, and where to  
20 report, whether it was Mobile, Montgomery,  
21 or wherever.

22          Q       And what percentage, in general,  
23 does the actual interview -- what weight do

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1 What else can you think of that would play a  
2 role, or would you say those are the three  
3 most important things?

4 MS. TARVER: Object to the form.

5 A Those are the three that come to  
6 mind.

7 Q Would you say those are the three  
8 most important things?

9 MS. TARVER: Object to the form.

10 A I guess so. That's a yes.

11 Q And in your opinion, is the  
12 interview process a subjective process?

13 MS. TARVER: Object to the form.

14 A I think they try to make it as  
15 objective as possible by having a set  
16 interview format and by making sure every  
17 applicant is asked the same things. In  
18 other words, you can't go off in some  
19 different direction with a different  
20 applicant. Every single person has to be  
21 able to respond to the same questions and so  
22 on.

23 Q But your view of the applicant

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1 James Packard, Yolanda Thomas, Donna  
2 Buckley, Edwin Aikens, Rebecca Aydelette,  
3 and Tina Nettles.

4 MS. TARVER: Object to the form.

5 Q Does that coincide with your  
6 recollection?

7 A That sounds about right. There  
8 were a lot of people who wanted that job.

9 Q Why is that? Do you know?

10 A Well, can we talk about  
11 downsizing? We can only say that as the  
12 department was downsizing, there were a lot  
13 of people facing unemployment. So there  
14 were a lot of people looking for whatever  
15 jobs were available.

16 Q The department was downsizing at  
17 the time?

18 A Yes.

19 Q And what is your recollection  
20 about where these interviews were held?

21 A Montgomery, I think.

22 Q And how long do the interviews  
23 usually last?

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1 Q And care to guess?

2 MS. TARVER: Object to the form.

3 A I don't know.

4 Q Okay. Now, you've marked "no"  
5 next to four people's names. Why did you do  
6 that?

7 A I guess I would tie that together  
8 with the top statement about where the  
9 degree came, what kind of degree they had.  
10 And it would appear to me that's saying  
11 these people don't have a degree in  
12 psychology or special education. That's  
13 what it looks like to me.

14 Q To your knowledge, James Packer  
15 did not have that degree?

16 A As best I recall now. That would  
17 have been the rational at the time.

18 Q Now, Ms. Blackledge did have a  
19 masters, correct?

20 A But not in psychology or special  
21 education.

22 Q But she had one in a similar  
23 field that would qualify for this, correct?

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1           A       Only in the most general sense.  
2       In other words, if what you're after is  
3       somebody whose background is in testing,  
4       assessment, and so on, what your reference  
5       is to find somebody with a background in  
6       psychology or special education.

7           Q       And the four people's names  
8       marked out with no next to them, they're all  
9       black employees, correct?

10          A       Yeah, they are.

11          Q       The person selected for this  
12       position was Mickey Groggel, correct?

13          A       Yes.

14          Q       And Mickey was a white employee  
15       that came from the Brewer Center, correct?

16          A       Correct.

17          Q       Do you know what her job title at  
18       the Brewer Center was, at that time?

19          A       I can't remember what their  
20       classifications were. She was a department  
21       head over both residential and day program  
22       services.

23

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1                   (Whereupon Plaintiff's  
2           Exhibit Number 13 was marked and  
3           attached to the deposition.)

4           Q       I'll mark this Exhibit 13 Bates  
5           stamp 0446, dated 12/10/2003. Have you seen  
6           this document before?

7           A       Yes.

8           Q       Can you tell me what that is?

9           A       Basically, this is the letter to  
10          Mr. Ervin at the Personnel Department  
11          stating the outcome of the selection process  
12          was that Mickey Groggel was selected for the  
13          job and indicating that her start time was  
14          being negotiated with the Brewer Center and  
15          that she was going to have to take a  
16          substantial pay cut to accept the position.

17          Q       Do you know what that pay cut  
18          was?

19          A       I don't know in amount, but I  
20          know that it was certainly a much lower  
21          classification than she had been in before.

22          Q       And do you have any idea what  
23          that CSS III position paid?

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1           A     I was aware of that. I had  
2 knowledge of what -- that going on.

3           Q     That kind of goes against what  
4 you just said, correct?

5           A     I really thought everybody was  
6 applying for a job just because they were  
7 about to lose whatever they had.

8           Q     Did you ever do any performance  
9 appraisals on Mickey Groggel, that you're  
10 aware of?

11          A     It's possible, because at one  
12 point when I was Facility Director, I was  
13 her supervisor.

14          Q     And do you remember doing some on  
15 Winifred Blackledge, also?

16          A     Yes.

17          Q     Performance appraisals, are they  
18 done twice a year, is that right?

19          A     Formal -- a formal appraisal is  
20 done once a year. There's an interim  
21 process that is somewhat different than a  
22 formal appraisal that goes on mid-year, or  
23 did at that time.

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1 other.

2 Q Could have, you just don't  
3 remember?

4 A Could have, don't remember.  
5 Could have discussed any of the people on  
6 that list.

7 Q Who do you think the best person  
8 was for that position?

9 A Well, since Mickey was selected,  
10 I guess I would think it was her. I think  
11 she had the -- she had the exact skill set  
12 that we were trying to move the department  
13 toward at that time, with background in  
14 education testing. But I think I said in  
15 the memo even that there were some really,  
16 really good people in that interview pool.

17 Q At that time period, who worked  
18 more closely with Winifred, you or  
19 Ms. London?

20 A I guess we both did. It was a  
21 very small office. Everybody, you know,  
22 worked with everybody else. We were all  
23 very -- in very close proximity to each



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1 the highest and the four black candidates  
2 the lowest, correct?

3 A Correct.

4 Q Is it possible that any  
5 subjective bias played a role in your  
6 decision?

7 MS. TARVER: Object to the form.

8 A No.

9 Q Do you find it odd that you  
10 graded the four black employees the lowest  
11 compared to the white employees?

12 A No, not when you know everybody.

13 Q Do you want a break or anything?

14 A No.

15 (Whereupon Plaintiff's  
16 Exhibit Number 16 was marked and  
17 attached to the deposition.)

18 BY MR. WILSON

19 Q I'll take one here shortly. I'm  
20 going to enter as Plaintiff's Exhibit 16.  
21 This is a stack of looks like about 30  
22 pages.

23 MS. TARVER: All this is one

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1 account the other things you discussed  
2 earlier, such as education and experience?

3 MS. TARVER: Object to the form.

4 A Correct. Yes. This is just a  
5 tally sheet from the interviews.

6 Q But you said those things,  
7 education, experience, should play a factor  
8 also in the final decision to hire someone,  
9 correct?

10 A Yes. Sure.

11 Q Do you know if Ms. Groggel had  
12 experience in the Community Services  
13 Department?

14 A That would not have been a  
15 factor. The experience that would have been  
16 a factor would have been experience with the  
17 tasks, the skill sets that were being looked  
18 for in an employee, whether somebody came  
19 from inside or outside or where they came  
20 from, if they had certain skill sets that  
21 were being considered.

22 Q Even though the first category is  
23 knowledge of Department of Mental Health,

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1 CSS III position?

2 A For the CSS III position that was  
3 announced at that time, I thought there were  
4 probably three people ahead of her in terms  
5 of people who met the specific criteria we  
6 were looking for at that particular job.

7 Q And who were those three?

8 A That would have been Ms. Groggel  
9 Ms. Allen and Ms. Chappell. And there was  
10 one that was also very close. And the  
11 differences between them are not great.

12 Q Do you think -- so if you're  
13 saying they're not great, you think  
14 Ms. Blackledge could have done the job?

15 A I think Ms. Blackledge would have  
16 had to gain a lot more skills than what she  
17 had at the time that the job was announced.

18 Q Such as?

19 A Such as the testing skills. I  
20 think the key thing for that position at  
21 that time was dealing with the functional  
22 assessment tools and all of that sort of  
23 thing that were outlined in the job

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1 announcement. What they were really after  
2 at that time was somebody who could take  
3 over coordinating of the individual client  
4 assessments and training other people to use  
5 client assessments.

6 Q And do you know if Mickey Groggel  
7 had experience in testing?

8 A Yes.

9 Q She did?

10 A Yes.

11 Q But to be clear, you thought she  
12 was a candidate who was qualified to do the  
13 job, although, not the highest candidate, in  
14 your opinion?

15 A I think she could have learned to  
16 do the job.

17 Q Let me jump back to 2002 now. Do  
18 you remember a Planning Quality Assurance  
19 position opening in 2002?

20 A I'm sorry, I can't give you a  
21 good answer on that.

22 Q Would it refresh your memory if I  
23 told you there was one that was open that

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1 MS. TARVER: She's told you but  
2 go ahead.

3 THE WITNESS: First of all,  
4 you're making an assumption that  
5 Kathi Allen declined the position,  
6 which she, to my knowledge, she  
7 did not.

8 BY MR. WILSON

9 Q We don't know.

10 A We don't know what happened  
11 there. We know that what we were looking  
12 for in that situation was a person with good  
13 testing skills, and there were a few of  
14 those candidates that had good testing  
15 skills on the list. So we know that's why  
16 they probably ended up with higher overall  
17 scores because they had specific skill.

18 We also know what was going on at the  
19 time, and at that particular time, what you  
20 had happening was an entire operation  
21 condensing, people losing jobs, people being  
22 transferred, etcetera, and every effort was  
23 being made to offer whatever few positions

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1 we had left to people who were about to lose  
2 their jobs. And I believe that that -- that  
3 the department was making a very serious  
4 effort to use its positions and keep as many  
5 employees as possible without having to fire  
6 people. So they could have taken that  
7 position and put it somewhere else to save  
8 somebody else's job. I don't know what they  
9 did, but I know that job saving was a big  
10 part of this whole process, to keep people  
11 from being unemployed.

12 Q And let me jump to the second  
13 paragraph. Do you remember what you're  
14 talking about changing classifications for  
15 Daphne Rosalis?

16 A No. Except that all of these  
17 things were occurring at the same time. You  
18 had massive movement of people from regional  
19 offices to central offices, closing down  
20 facilities, etcetera. So what we had was  
21 several hundred more employees than we had  
22 positions, and people were making a lot of  
23 moves, at that time.

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1           Q     So you don't recall the specific  
2     classification you wanted to move Daphne to?

3           A     I wouldn't have moved Daphne.  
4     Daphne would have been moved by somebody  
5     else. And if that was an opportunity for  
6     employment, you know, we were talking about  
7     general moving and saving jobs and people  
8     moving around, that's all I can tell you.

9           Q     Do you know what happened to  
10    Daphne Rosalis, if she's still employed  
11    there?

12          A     I don't know if she's still  
13    employed or not.

14          Q     You don't know when she left  
15    either?

16          A     No. But I know she moved to  
17    central office in some capacity. Whether  
18    she's still there or not, I don't know.

19          Q     And then Mickey Groggel, you're  
20    talking about changing her classification to  
21    QE, what is QE?

22          A     Quality -- it was Quality  
23    Assurance. I don't know. They kept

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1 renaming things. So I don't remember.

2 Q And why did you want to change  
3 her classification to QE?

4 A It wouldn't have been me making  
5 that change. This is basically stating if  
6 all these people are moving, you know, what  
7 can we do to help this person who is about  
8 to lose their job.

9 Q Why did you make that suggestion  
10 in the letter? I know you might not be able  
11 to change her classification.

12 A Right.

13 Q Why did you make the suggestion  
14 to change her to QE?

15 A No, I would not make that  
16 suggestion. What I'm saying, if these  
17 things are occurring, if this is going to  
18 happen and this is going to happen, you  
19 know, what can we do to save this one  
20 person's job. That's basically all this  
21 memo is about.

22 Q So did you think Mickey Groggel  
23 was being changed to QE?



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1 A Yes.

2 Q Do you remember why you thought  
3 that?

4 A I don't know if it had been  
5 announced already or just exactly what had  
6 happened. Basically, I'm saying, if these  
7 things are going to fall into place, what  
8 can we do.

9 MR. WILSON: Should be about  
10 done. Let me get a quick break,  
11 like real quick, and I will wrap  
12 up.

13 MS. TARVER: Okay.

14 (Whereupon, a short break was taken.)

15 BY MR. WILSON

16 Q I'm trying to wrap up here.  
17 Thank you for your time and your patience.  
18 Let me jump back to something we were  
19 talking about a while ago. Do you recall  
20 anything about Kathi Allen leaving for The  
21 Learning Tree, to take a job outside the  
22 department at that time?

23 A I heard that's where she went

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1 position that's been in question here, do  
2 you believe that the people that you rated  
3 higher have had more or less of those extras  
4 that you're referring to than  
5 Ms. Blackledge?

6 A Well, I did because --

7 Q You did what?

8 A I did believe that they had more  
9 assets to offer the department at that time  
10 for that job. They had skill sets we wanted  
11 in testing and assessment, some of them -- I  
12 think they all had supervisory experience  
13 and so on. These are people who had already  
14 moved actually beyond a CSS III position and  
15 most of them were having to come back down  
16 to apply for that job.

17 Q So when Mr. Wilson phrases his  
18 questions with identifying the race of the  
19 individuals that were rated higher, as  
20 compared to Ms. Blackledge's race, that was  
21 not a consideration for you in how you  
22 graded any of these individuals?

23 MR. WILSON: Object to the form.

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1           A       No, that wasn't a factor at all.

2           Q       Well, he's objected, let me  
3 rephrase it. Was race a factor in how you  
4 graded people in the interviews for the CSS  
5 III that you've been asked questions about  
6 here today?

7           A       No.

8           MS. TARVER: Okay. One last  
9 thing, Josh. I have got, as I  
10 have discussed with you off the  
11 record, we have what some of the  
12 other deponents that are coming up  
13 later have provided us in response  
14 to the later retaliation charges  
15 that have been added to this case,  
16 that we had received from them in  
17 the process of preparing our  
18 response to EEOC to those charges,  
19 and I have just had them presented  
20 to and literally going through  
21 them to be able to update our  
22 production to you and what would  
23 be responsive generally in this

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1 there probably wasn't anybody in our office  
2 who had really looked through these kinds of  
3 systems. You know, doing data collection  
4 and trend analysis, and so on, was something  
5 really just at that point being introduced  
6 to us.

7 Q Okay. That's all I have.

8 MS. TARVER: Okay.

9 DEPOSITION CONCLUDED

10  
11  
12  
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23

**FREEDOM COURT REPORTING**

Page 1

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF ALABAMA  
3 SOUTHERN DIVISION  
4

5 CIVIL ACTION NUMBER CV-2:06CV321-ID  
6 WINIFRED BLACKLEDGE,  
7 Plaintiff(s),  
8 v. **COPY**

9 ALABAMA DEPARTMENT OF MENTAL HEALTH  
10 & RETARDATION; COMMISSIONER JOHN  
11 HOUSTON in his Official capacity as  
12 Commissioner of Alabama Department  
13 of Mental Health & Mental  
14 Retardation,  
15

16 Defendant(s).  
17

18 DEPOSITION TESTIMONY OF:

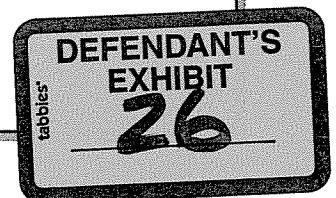
19 ERANELLE McINTOSH-WILSON

20 Commissioner:

21 Renny D. McNaughton

22 March 15, 2007

23 Mobile, Alabama



**FREEDOM COURT REPORTING**

Page 13

1 A Yeah, somewhere '96, '97.

2 Q Okay. How long --

3 A And then I stayed there until  
4 June 2001.

5 Q Then where did you go June 2001?

6 A State Department of Mental Health  
7 and Retardation in Alabama as the State  
8 Director.

9 Q And what is your current title?

10 A Associate Commissioner for the  
11 Department of Mental Health and Mental  
12 Retardation.

13 Q Is that a different position than  
14 what you said you had when you came in 2001?

15 A No.

16 Q Same position?

17 A Yes.

18 Q So it's a State Director  
19 position?

20 A That's correct.

21 Q And who is your immediate  
22 supervisor?

23 A Commissioner Houston.

## FREEDOM COURT REPORTING

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1 Ms. Blackledge's complaints about her  
2 performance appraisal?

3 A Don't remember that I did.

4 Q You don't recall talking to Mr.  
5 Ervin or anyone --

6 A He didn't ask me a question.

7 Q This is another one, Plaintiff's  
8 57, also copied to you.

9 A The subject matter I do remember,  
10 but the subject matter appears to be the  
11 same for the two.

12 Q Okay. Also discussing the  
13 performance appraisal?

14 A Yes. As I said, whether I  
15 received both of them, the subject matter is  
16 in both. Okay.

17 Q And does the same thing apply,  
18 you would send those to your secretary just  
19 to file?

20 A Correct.

21 Q Okay. Were you aware also that  
22 Ms. Blackledge had filed an EEOC complaint?

23 A I think the legal office did make

**FREEDOM COURT REPORTING**

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1 me aware of that.

2 Q Do you remember when you were  
3 made aware of that?

4 A No.

5 Q Let's see if we can get some type  
6 of idea. If it was filed in maybe April of  
7 2004, do you know if they notified you  
8 sometime soon after that, or was it more  
9 recently?

10 A I don't remember.

11 Q You can't give me an estimate?  
12 Was it within the last six months?

13 A No, I don't remember.

14 Q Okay. And what did the legal  
15 department -- well, sorry. Were you also  
16 made aware that she had filed a lawsuit  
17 against the department?

18 A Yes.

19 Q Do you remember when you were  
20 made aware of that?

21 A No.

22 Q I'm going to jump back in to what  
23 we were talking about earlier, about job



**FREEDOM COURT REPORTING**

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1           A       Yes, I heard this name.    You  
2       asked me if knew her.

3           Q       I know.

4           A       I didn't know she was white until  
5       they told me this week.

6           Q       Okay.   Do you know anything about  
7       her employment with the department ending in  
8       February of '04?

9           A       Yes.

10          Q       What do you know about that?

11          A       The department closed three of  
12       the developmental centers in '03, '04, and  
13       as a part of the closure, the Governor asked  
14       the Commissioner and, therefore, asked us to  
15       make every opportunity available to people  
16       who would lose their jobs because of the  
17       closure of the facilities.   We had three  
18       developmental centers and two MI facilities  
19       closing during -- between October '03 and  
20       February -- and March 1st '04.   And we did,  
21       we made every possibility.   The Governor  
22       even froze vacancies at various other  
23       agencies so that people who were losing

## FREEDOM COURT REPORTING

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1 their jobs would have an opportunity to have  
2 a job when the closures were over.

3 Q And I don't want to -- let's try  
4 to listen carefully and answer carefully  
5 about these little series of questions here,  
6 and I'm going to try to ask them the best I  
7 can. I know I probably don't always ask the  
8 best questions. Earlier we had talked about  
9 how it would be against the rules for  
10 someone to select somebody for a position  
11 and then go through the interview position  
12 and hire them, is that correct? Do you  
13 remember talking about that?

14 A If it were possible to preselect  
15 with the panel, as I indicated, that's the  
16 check and balance system.

17 Q Okay. Is that something -- was  
18 that the department tried to do for people  
19 that were working at the center -- a center  
20 that was closing down, though, to try to  
21 find them positions?

22 A What we did was made available  
23 the opportunity for them to apply. We

## FREEDOM COURT REPORTING

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1 didn't just say, "Here is a position,"  
2 especially those at the executive level or  
3 -- in fact, all of them, all except the  
4 direct care staff, we did say, "Here is a  
5 position you can go into." But we had  
6 people actually interview for those  
7 positions. If you look at here --

8 Q You're referring to Plaintiff's  
9 Exhibit 11?

10 A Yes, eleven. Groggel, Allen,  
11 Packer. I don't know who that is. Ezell,  
12 Shappell all were losing their jobs. We  
13 didn't give it to anyone; they applied for  
14 it.

15 Q So they just had the opportunity  
16 to apply?

17 A To apply for, yes, and were told.

18 Q Go ahead. And were what?

19 A And we were told to give, if all  
20 being equal, to those people who were  
21 getting the -- getting -- losing their jobs.  
22 If they qualified and all being equal, they  
23 should be given preference, that's correct.

## FREEDOM COURT REPORTING

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8 v.

9 ALABAMA DEPARTMENT OF MENTAL HEALTH

10 & RETARDATION; COMMISSIONER JOHN

11 HOUSTON in his Official capacity as

12 Commissioner of Alabama Department

13 of Mental Health & Mental

14 Retardation,

15  
16 Defendant(s).

17  
18 DEPOSITION TESTIMONY OF:

19 FORDYCE MITCHEL

20 Commissioner:

21 Renny D. McNaughton

22 March 15, 2007

23 Mobile, Alabama

DEFENDANT'S  
EXHIBIT

27

**FREEDOM COURT REPORTING**

Page 8

1 Q And are you married, Mr. Mitchel?

2 A Yes, I am.

3 Q A what is your wife's name?

4 A Jane Mitchel.

5 Q And how long have you been  
6 married?

7 A Twenty-five years.

8 Q Do you have children?

9 A One.

10 Q What is your child's name?

11 A Aaron.

12 Q Aaron. Is that a boy or girl?

13 A It's A-A-R-O-N. It's a boy.

14 Q How old is Aaron?

15 A I think he's 23.

16 Q Does he live in the Montgomery  
17 area?

18 A No.

19 Q Where does he live?

20 A Pennsylvania.

21 Q What is your current position  
22 with the department?

23 A I'm the Director of Mental

**FREEDOM COURT REPORTING**

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1 Retardation Community Service programs.

2 Q So are you over all the Community  
3 Service departments in the department?

4 A No, in the division of Mental  
5 Retardation. The community programs are my  
6 responsibility.

7 Q Okay. How long have you been in  
8 that position?

9 A Six years and two months.

10 Q So, approximately, the beginning  
11 of 2002, is that when you started?

12 A Yes, sir.

13 Q What was your position before  
14 that? Were you with the department.

15 A I was with the Department of  
16 Mental Health in the State of Missouri for  
17 25 years.

18 Q What is your education level?

19 A Masters degree.

20 Q In what?

21 A Social work.

22 Q From where?

23 A University of Missouri.

**FREEDOM COURT REPORTING**

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1 were closing the facility at that time.

2 Q What facility?

3 A Brewer.

4 Q Brewer?

5 A And I don't remember this  
6 specifically with regard to Groggel, over --  
7 in all three cases there were -- we were  
8 trying to -- we were trying to provide as  
9 much support for the staff who would be  
10 displaced by closing those facilities as we  
11 could. At the same time, we had to maintain  
12 good service to the residents of those  
13 facilities until the last one had left. I  
14 didn't know Mickey Groggel. I had never met  
15 her. But she was -- she was a clinical  
16 person in a fairly high position in the  
17 Brewer facility, and I believe she was  
18 probably essential to the operation of that  
19 facility, and that might be why she couldn't  
20 come and fill the position to which she had  
21 been hired.

22 Q Okay. Do you know Kathi Allen?

23 A No. I know the name; I've never

FREEDOM COURT REPORTING

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1           A       Well, she's got to get my  
2 approval, too. I don't remember saying,  
3 "No, you can't do this." But the fact that  
4 she didn't do it sounds to me like, you  
5 know, either I said no or Joy said there  
6 wasn't the money or Ms. Wilson said no. I  
7 cannot imagine Susan Stuardi leaving a  
8 position open when she could fill it.

9           Q       But she had that ability to move  
10 people around those positions, as long as  
11 she got approval from your office?

12                   MR. TARVER: Object to the form.

13           A       Right.

14           Q       Were you also aware that Ms. --  
15 that there was a Planning and Quality  
16 Assurance II position opened back in 2002?

17           A       Yes.

18           Q       In this Region III?

19           A       We had one in each region.

20           Q       Okay. Do you remember Daphne  
21 Rosalis receiving a PQA position in 2002?

22           A       If you say that's when it  
23 happened, I'll agree with you. I didn't



**FREEDOM COURT REPORTING**

Page 45

1 actually meet Ms. Rosalis until considerably  
2 later.

3 Q Did you have any input into  
4 Ms. Rosalis receiving that position?

5 A No.

6 Q Do you know if anyone was in that  
7 position prior to Ms. Rosalis?

8 A It was a new position.

9 Q It was a new position at that  
10 time?

11 A Yes. There was a new position  
12 made for each regional office. That  
13 position did not report to the Regional  
14 Community Service Director. It was not  
15 under my direct line.

16 Q They worked in that office but  
17 they reported to central office?

18 A To central office, to a newly  
19 developed office of Quality Enhancement.

20 Q Are you aware that Ms. Blackledge  
21 filed an EEOC charge in 2004?

22 A I assume I am. I was copied on I  
23 think most of the documents that she sent.

## FREEDOM COURT REPORTING

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1           Q     Okay. Do you know -- are you  
2 talking about more recent incidents? I'm  
3 trying to talk about a EEOC charge that was  
4 filed by Ms. Blackledge in 2004 regarding  
5 discrimination in promotions.

6           A     I don't recall it, specifically.

7           Q     Did you play any role in  
8 investigating any EEOC claims Ms. Blackledge  
9 made?

10          A     I don't believe so.

11          Q     Do you recall having  
12 conversations not -- I'm not trying to ask  
13 what you discussed, but any conversations  
14 with the legal department about  
15 Ms. Blackledge?

16          A     No.

17                   (Whereupon Plaintiff's  
18 Exhibit Number 98 was marked and  
19 attached to the deposition.)

20 BY MR. WILSON

21          Q     I will mark this as Plaintiff's  
22 Exhibit 98. This is a document signed by  
23 Ms. Rebecca Luck, who is here with us today

## FREEDOM COURT REPORTING

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13 of Mental Health & Mental  
14 Retardation,

15  
16 Defendant(s).

17  
18 DEPOSITION TESTIMONY OF:

19 JERRYLN LONDON

20 Commissioner:

21 Renny D. McNaughton

22 March 14, 2007

23 Mobile, Alabama

DEFENDANT'S  
EXHIBIT

28

367 VALLEY AVENUE  
(205) 397-2397 BIRMINGHAM, ALABAMA 1-800-373-3660

**FREEDOM COURT REPORTING**

Page 33

1 exactly. It was either one of the two: BC  
2 Farnum or Jeff Williams.

3 Q And is she employed with the  
4 department?

5 A Yes.

6 Q What is her position now?

7 A PQA II. I guess it's II. Don't  
8 quote me on that.

9 Q Is she still in Region III?

10 A Yes. She is in Region III, and  
11 her supervisor is still in Montgomery.

12 Q Who is her supervisor now?

13 A Jeff Williams.

14 Q So you don't have a opportunity  
15 to work with her?

16 A We do work together on a lot of  
17 things, but I don't supervisor her.

18 Q Okay. Were you aware that  
19 Winifred filed an EEOC charge against the  
20 department in, I think, April 2004?

21 A I don't know when I was aware,  
22 but, yes, I'm aware that she filed a EEOC  
23 charge.

## FREEDOM COURT REPORTING

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1           A       I don't remember if she told me  
2       that, number one, but if she did, Donna may  
3       have been assigned to do something, or I may  
4       have needed them both to do it. But without  
5       the assignment list in front of me, I would  
6       only be guessing.

7           Q       Have you ever let other people  
8       out of the spring conference?

9           A       I had already approved for  
10       Shirley Patterson to go. That was probably  
11       the first time that we had done.

12          Q       You can't think of anyone else  
13       that --

14          A       I hadn't been in charge before.  
15       That was '04, '05. That might have been the  
16       second one, but not the first that I recall.

17          Q       And did Ms. Blackledge end up  
18       working that spring conference?

19          A       She did come in and work that  
20       Tuesday, Wednesday. But the registration  
21       table, it's the first day is usually --  
22       really when I needed her.

23          Q       Have you ever disciplined

**FREEDOM COURT REPORTING**

Page 1

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11 HOUSTON in his Official capacity as  
12 Commissioner of Alabama Department  
13 of Mental Health & Mental  
14 Retardation,

15  
16 Defendant(s).

17  
18 DEPOSITION TESTIMONY OF:

19 KENDRA BUTLER

20 Commissioner:

21 Renny D. McNaughton

22 March 14, 2007

23 Mobile, Alabama

DEFENDANT'S  
EXHIBIT

29

**FREEDOM COURT REPORTING**

Page 28

1 Plaintiff's Exhibit 55. It was Defendant's  
2 Exhibit 28. This is a letter from  
3 Ms. Blackledge to Mr. Henry Ervin. I think  
4 she also attached Exhibit 54 with that.  
5 Have you ever seen Exhibit 55 before?

6 A I do not recall seeing this.

7 Q You don't think you've seen that  
8 document?

9 A I don't believe so, no.

10 Q Were you aware at that time that  
11 Ms. Blackledge was making allegations of  
12 retaliation and harassment?

13 A No, not that I recall.

14 Q Were you aware that  
15 Ms. Blackledge had filed an EEOC charge?

16 MR. TARVER: Object to the  
17 form.

18 MR. WILSON: Do you want me  
19 to rephrase it?

20 MR. TARVER: Uh-huh.

21 MR. WILSON: What's wrong  
22 with it?

23 MR. TARVER: She's got two

**FREEDOM COURT REPORTING**

Page 29

1 different charges.

2 BY MR. WILSON:

3 Q Were you aware Ms. Blackledge had  
4 filed an EEOC charge in 2004?

5 A I didn't know it was an EEOC  
6 charge.

7 Q What did you know?

8 A I knew that there was a grievance  
9 filed, and that was the extent of what I  
10 knew.

11 Q And did you know what it  
12 involved?

13 A No.

14 Q Did you know it involved anything  
15 about race discrimination?

16 A No.

17 Q And how were you made aware of  
18 that, that there was a grievance filed?

19 A Which grievance?

20 Q Well, which one --

21 A I mean, I didn't know about --

22 Q You knew she made some form of  
23 complaint?